

**Comments of the Natural Resources Defense Council (NRDC) on the
*Workshop on Energy Efficiency Baseline and To-Code Incentive Eligibility Issues***

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The Natural Resources Defense Council (NRDC) respectfully submits these informal comments on Question #5 of Attachment A to the Agenda for “*Workshop on Energy Efficiency Baseline and To-Code Incentive Eligibility Issues*.” NRDC is a non-profit membership organization with more than 70,000 California members who have an interest in receiving affordable energy services while reducing the environmental impact of California’s energy consumption.

Q5. Equipment does burn out, and buildings do get retrofit, triggering code upgrades. Given this reality, coupled with the fact that federal and state Codes and Standards exist and set efficiency floors for replacement equipment and building renovations, how can the CPUC ensure that an existing conditions baseline will not provide customers incentives and credit utility programs for large amounts of savings that are already occurring anyway?

NRDC recommends the Commission refine the process to implement the current “dual baseline” policy and rely on the California Technical Forum to establish estimates for calculating savings under this approach.

We recognize the challenge facing the Commission as described in the above question and look forward to seeing the forthcoming California Energy Commission whitepaper outlining their estimates of annual retrofits and compliance rates as well as results from the utility pilots to help inform policy moving forward. We also note that the Commission began to address the issue through the establishment of an “early retirement” policy, which gives credit to accelerating efficiency improvements for those actions that would not happen for some years in the future, if ever. While this policy is fundamentally sound, interpretation of this policy has made it nearly impossible to account for early retirement savings in practice. We therefore recommend that in its effort to answer Question 5, the Commission review and update the guidance on the early retirement policy to help determine appropriate savings estimates and incentives for projects that remove equipment prior to burnout. We also encourage the Commission to rely on the expertise of the California Technical Forum whenever possible.

The current guidance on implementing early retirement projects now establishes a

presumption that all projects are replace on burnout and places the burden of proof on implementers to prove that an upgrade is early retirement. In contrast, the preferred policy is to require a preponderance of evidence for adopting either baseline (early retirement or code). While this may seem to be a case of semantics, the current approach is unbalanced, creating a near insurmountable barrier for programs trying to reach savings that will not otherwise be captured.

The Commission previously addressed this issue in D.11-07-030 and clearly ruled that there should be no presumption one way or another of what type of baseline should be used for a retrofit project.¹ The Commission reaffirmed this guidance in D.12-05-015.

“In D.11-07-030, we adopted an approach to establishing a baseline for ex ante gross savings values. This approach requires the review of the evidence related to one of the two baseline choices: (1) the pre-existing equipment used in the early retirement case; or (2) new equipment that is feasible to use and is code-compliant or an industry standard practice. Evidence relating to the reasons for the equipment replacement is used to make the baseline choice.” (D.12-05-015, pg. 346)

These two Commission decisions enunciate a clear and unambiguous Commission policy that there is no presumption that retrofit projects are automatically “replace on burnout” (which would use a code baseline to calculate savings) rather than “early retirement” (which would give savings credit for bringing existing buildings and equipment up to code faster than it would happen on its own). In these decisions, the Commission directed that the choice of which baseline to use should be based on an unbiased review of the evidence. We recommend the Commission revise current guidance to be in line with the Commission decisions on this matter and use the technical experts of the CalTF to vet and determine estimates needed to comply with this policy in a transparent manner.

¹ “There needs to be compelling evidence to determine whether a project is “replace on burnout” or “early retirement.” (D.11-07-030, p.41)